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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SARA ELIZABETH YOUNG,
THEODORE VAN FOSSEN McCONNELL, RICHARD LEE KILEY,
IAN CHRISTOPHER THOLKING, and ROBB ERIC OLSEN

Appeal 2008-0571
Application 09/979,493
Technology Center 2100

Decided: September 8, 2008

Before LANCE LEONARD BARRY, ALLEN R. MACDONALD,
And JAY P. LUCAS, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

A Patent Examiner rejected claims 1-37. The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

A. INVENTION

The invention at issue on appeal processes data from a source with data stored in a family data file to create value-added data accessible by users. (Spec. 1.)

B. ILLUSTRATIVE CLAIM

Claim 17, which further illustrates the invention, follows.

17. A method of managing information within members of a family, comprising the following steps:

- (a) storing user information in at least one family data file contained within a central control module;
- (b) obtaining relevant family information from at least one information source;
- (c) processing said relevant family information with information in said family data file to create value-added family information; and,
- (d) providing access to said value-added family information via a user interface system connected to said central control module.

C. REJECTIONS

Claims 1-5, 11, 15-22, and 27-33 stand rejected under 35 U.S.C. § 103(a) as obvious over the Family Tree House website and U.S. Patent No. 6,675,356 ("Adler").

Claims 6-10, 12-14, 23-26 and 34-37 stand rejected under 35 U.S.C. § 103(a) as obvious over the Family Tree House website; Adler; and U.S. Patent No. 6,236,978 ("Tuzhilin").

"Rather than reiterate the positions of parties *in toto*, we focus on the issues therebetween." *Ex parte Katsukawa*, No. 2007-0732, 2007 WL 3043602 at *2 (BPAI 2007).

II. AT LEAST ONE INFORMATION SOURCE AND VALUE-ADDED INFORMATION

The Examiner finds that the claimed "[i]nformation source corresponds to one of the [Family Tree website's] sources such as 'Census Bureau', 'CZECH information Center.'" (Ans. 9.) The Appellants argue that "the Family Tree House application does not have any access to any information sources other than user inputted familial relationship that may be used to develop and communicate value added family information in the manner of the present invention." (App. Br. 8.) They add "[m]oreover, such databases only contain similar or identical information as to that which was inputted by the user in the Family Tree House application, and would not generate the value added family information contemplated in Applicant's present invention." (*Id.*) Therefore, the issue is whether the Appellants have shown error in the Examiner's finding that the Family Tree website teaches at least one source of information using information therefrom to generate value-added information.

"[A]nticipation is a question of fact." *In re Hyatt*, 211 F.3d 1367, 1371-72 (Fed. Cir. 2000) (citing *Bischoff v. Wethered*, 76 U.S. (9 Wall.) 812, 814-15 (1869); *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997)). "A reference anticipates a claim if it discloses the claimed invention 'such that a skilled artisan could take its teachings in *combination with his own knowledge of the particular art and be in possession of the invention.*'" *In re Graves*, 69 F.3d 1147, 1152 (Fed. Cir. 1995) (quoting *In re LeGrice*, 301 F.2d 929, 936 (CCPA 1962)).

Here, the Family Tree website "software . . . links to key genealogy sites" (p. 1) including the "Census Bureau Home Page" (p. 10). Furthermore, "[t]he *information* in our [i.e., the Census Bureau Home Page's] online data collections and data CDs give you the vital facts you need to complete your family tree." (P. 13 (emphasis added).)

Because the Census Bureau Home Page offers access to vital information in the form of facts, it constitutes a source of information. When an user enters these facts into an incomplete family tree stored in the Family Tree Website to complete the family tree, we find that the completed tree constitutes value-added information. Therefore, the Appellants have shown no error in the Examiner's finding that the Family Tree website teaches at least one source of information using information therefrom to generate value-added information.

III. COMBINING REFERENCES

The Examiner makes the following findings.

One of ordinary skill in the art would have recognized that some physical system must be implemented in the Family Tree House reference; and having the Adler system before her, it would have been obvious to one with ordinary skill in the art at the time the invention was made to implement Adler's system in carrying out the Family Tree House's method because the Adler system was readily available and would enable the objectives of the Family Tree House system to be carried out. The obvious modification would have been to install the Family Tree House software on to the Adler system.

(Ans. 4-5.)

In addition, Tuzhilin also teaches "the system and method according to the present invention can also be incorporated in a Web site system... Using this system and method ... the dynamic Web content of the Web site presented to the user can be varied to conform to the dynamic profile of the user visiting the Web site" (col. 14, lines 21 -29 of Tuzhilin).

Since there are user profiles in the Family Tree House web site and the system require more information related to the user profiles, it would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Tuzhilin into the combination of Family Tree House and Adler system because the combination provides the user information as needed without searching for it.

(*Id.* 12.) The Appellants argue that "[T]he Examiner was required to demonstrate where in the Family Tree House website or Adler or Tuzhilin, there is a suggestion which would have 'strongly motivated' one to make family management system as claimed." (App. Br. 11.) Therefore, the issue

is whether the Appellants have shown error in the Examiner's reasons for combining teachings from the Family Tree House website, Adler, and Tuzhilin.

The presence or absence of a reason "to combine references in an obviousness determination is a pure question of fact." *In re Gartside*, 203 F.3d 1305, 1316 (Fed. Cir. 2000) (citing *In re Dembiczak*, 175 F.3d 994, 1000 (Fed. Cir. 1999)). "The obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance of published articles and the explicit content of issued patents. The diversity of inventive pursuits and of modern technology counsels against limiting the analysis in this way." *KSR Int'l v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007).

Here, the Appellants' argument that the Examiner was required to identify a teaching in the references that would have strongly motivated one to combine teachings therefrom shows no error in the Examiner's reasons for combining teachings from the Family Tree House website, Adler, and Tuzhilin.

IV. ORDER

For the aforementioned reasons, we affirm the rejections of claims 1-37 under § 103(a).

"Any arguments or authorities not included in the brief or a reply brief filed pursuant to [37 C.F.R.] § 41.41 will be refused consideration by the Board, unless good cause is shown." 37 C.F.R. § 41.37(c)(1)(vii). Accordingly, our affirmance is based only on the arguments made in the revised Appeal Brief. Any arguments or authorities omitted therefrom are neither before us nor at issue but are considered waived. *Cf. In re Watts*, 354 F.3d 1362, 1367 (Fed. Cir. 2004) ("[I]t is important that the applicant challenging a decision not be permitted to raise arguments on appeal that were not presented to the Board.")

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

pgc

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